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9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF CALIFORNIA
11
12

13 UNITED STATES OF AMERICA,) No. Cr-S-03-384 WBS
14)
Plaintiff,)
15 v.) STIPULATION AND ORDER RE:
EXCLUDING TIME UNDER THE SPEEDY
16) TRIAL ACT.
MICHAEL LABRECQUE,)
17)
aka Joseph;)
18 JULIETTE LABRECQUE,)
aka Mary; and)
19 ALLEN HARROD,)
aka Isaac,)
20 Defendants.)
21)

22 On April 19, 2006, a hearing was held on defendants' and the
23 government's motions in limine to exclude certain evidence in the
24 trial of the above-named defendants. Appearing for the government were
25 Assistant U.S. Attorney's Laurel D. White and Ellen V. Endrizzi. All
26 three defendants were present, and in the company of their attorneys,
27 Jan Karowsky for Juliette Labrecque, Bruce Locke for Allen Harrod, and
28 Caro Marks for Michael Labrecque.

1 Before addressing the motions in limine, the court decided to
2 address first, defendants' motion to waive jury trial.¹ Following
3 discussion, and a second round of research on the issue, the
4 defendants' motion to waive jury trial was submitted to the court for
5 decision. For the reasons stated orally on the record at the
6 conclusion of the hearing, the court granted defendants' motion. The
7 court did not hear argument or rule on the other pending motions.

8 At the government's request this court stayed the proceedings and
9 vacated the April 25, 2006 trial date to permit the government time to
10 seek approval from the Solicitor General to pursue mandamus relief from
11 the Ninth Circuit, and time to litigate its Writ of Mandamus.

12 Therefore, in light of the pending motions, and because of the
13 time needed to adjudicate the government's writ, the parties request
14 that the court find that the time between April 5, 2006,² and the date
15 the Ninth Circuit renders a decision on the government's writ, or this
16 court rules on pending motions, whichever date occurs last, be
17 excluded under the Speedy Trial Act. The parties stipulate that time
18 shall be properly excluded under 18 U.S.C. § 3161(h)(1)(F) - delay
19 resulting from any pretrial motion, from the filing of the motion
20 through the conclusion of the hearing or other prompt disposition of,
21 such motion; 18 U.S.C. § 3161(h)(1)(E) - delay resulting from any
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23
24 ¹Although all motions were to have been filed by April 10th,
25 defendant Allen Harrod filed on April 14, 2006, a motion to waive jury
26 trial. In his motion, he represented that his co-defendants, Juliette
27 and Michael Labrecque, joined in his motion for a bench trial. The
government, on April 17, 2006, filed its response in opposition to the
jury trial waiver, and indicated it would not consent to waive jury
trial.

28 ²The first motion to be filed was defendant Michael Labreque's
notice of motion and motion for disclosure of Fed.R.Cr.P. 414 and
404(b) evidence, filed on April 5, 2006.

interlocutory appeal; and 18 U.S.C. § 3161(h)(8)(A)(B)(iv) - in order to provide the parties with reasonable time necessary for effective preparation, taking into account the exercise of due diligence.³

Dated: April 24, 2006

Respectfully submitted,

McGREGOR w. SCOTT
United States Attorney

BY: //S// Laurel D. White
LAUREL D. WHITE
Assistant U.S. Attorney

By: //s// Laurel D. White
w/permission of and for
CARO MARKS
Attorney for Defendant
Michael Labrecque

By: //s// Laurel D. White
w/permission of and for
JAN KAROWSKY
Attorney for Defendant
Juliette Labrecque

By: //s// Laurel D. White
w/permission of and for
BRUCE LOCKE
Attorney for Defendant
Allen Harrod

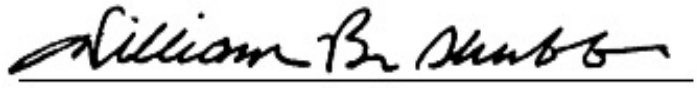
³On April 20, 2006, the government ordered an expedited transcript of the April 19th hearings. On April 20, 2006, the government submitted documents to the Solicitor General requesting permission to seek mandamus relief from the Ninth Circuit. Upon receiving such approval, the government intends to request an expedited briefing and hearing before the Ninth Circuit.

O R D E R

There being good cause therefor, this Court hereby finds that the time between April 5, 2006, and the date the Ninth Circuit renders a decision on the government's writ, or this court rules on pending motions, which ever date occurs last, be excluded under the Speedy Trial Act. Time shall be properly excluded under 18 U.S.C. § 3161(h)(1)(F) - delay resulting from any pretrial motion, from the filing of the motion through the conclusion of the hearing or other prompt disposition of, such motion; 18 U.S.C. § 3161(h)(1)(E) - delay resulting from any interlocutory appeal; and 18 U.S.C. § 3161(h)(8)(A)(B)(iv) - in order to provide the parties with reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

IT IS SO ORDERED.

Dated: April 25, 2006


WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE